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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHNNY MARTINEZ, et al.,

Defendants.

No. CR 8:22-00034-FWS-16

GOVERNMENT'S OPPOSITION TO
DEFENDANT KEVIN TREJO'S MOTION TO
COMPEL BRADY MATERIAL (ECF #2081)

Hearing Date: December 4, 2025
Hearing Time: 2:30 p.m.
Location: Courtroom of the
Hon. Fred W.
Slaughter

Plaintiff United States of America, by and through its counsel
of record, the United States Attorney for the Central District of
California and Assistant United States Attorneys Gregory S. Scally
and Gregory W. Staples, and Trial Attorneys Christopher Matthews and

Grace Bowen, hereby files its Opposition to Defendant Kevin Trejo's Motion to Compel Brady Material.

This Opposition is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

Dated: November 13, 2025

Respectfully submitted,

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Kevin Trejo seeks to compel the government to produce three items described as Brady material, a videorecording of a statement of Steven Reveles, "underlying" documents related to money given to a trial witness ("Witness-3") against defendant Trejo for temporary relocation expenses, and the entire forensic image of Witness-3's phone. As defendant Trejo's motion seeks items that are not in the possession of the government or law enforcement and fails to make a showing that any of the requested items contain evidence favorable to the defendant, the motion should be denied.

Notably, each of these items was known to trial counsel before trial. Defendant has spent two years since his conviction in an apparent effort to reinvestigate matters that were known to his trial counsel presumably to support his eventual motions for a new trial or acquittal. Defendant cannot prevail on a post-trial motion to compel discovery on issues that were plainly known to his trial counsel. Given the disclosure of these items pre-trial, there was no suppression and therefore no Brady issue. The purpose of post-trial motion for a new trial or acquittal is not for newly appointed counsel to second guess the investigative decisions of trial counsel.

II. STATEMENT OF FACTS

On October 13, 2023, a jury convicted Mike Escobar, James Mendez, and defendant Trejo of the August 21, 2017, VICAR murder of Richard Villeda as charged in Count Five of the First Superseding Indictment. Codefendant Johnny Martinez was severed from the other defendants in Count Five, and his trial is scheduled for August 4, 2026.

1 During the October 2023 trial, the government introduced
2 evidence against defendant Trejo including, among other things, cell
3 phone location information, surveillance footage of the stolen black
4 Jeep used by Trejo and his codefendants arriving to pick up Mr.
5 Villeda and of the Jeep where they shot him to death, contents of
6 communications about the black Jeep involving defendant Trejo's
7 girlfriend who helped steal the Jeep, contents of communications
8 among defendants Trejo, Escobar, Mendez, Martinez, and other
9 coconspirators, the testimony of two cooperating witnesses, one of
10 whom was Witness-3, video communications between Witness-3 and
11 defendant Trejo, and text messages between Witness-3 and defendant
12 Trejo. Regarding the video messages between Witness-3 and defendant
13 Trejo, the government offered in evidence a video recording of
14 Witness-3's cell phone as it played a stream of communications in
15 chronological order. The government also offered photographs of
16 Witness-3's phone displaying communications with defendant Trejo in
17 chronological order.

18 Prior to trial, the government disclosed all of the above
19 evidence as well as a 285-page Cellebrite report of Witness-3's cell
20 phone containing communications and data between at least August 10,
21 2017, and September 15, 2017, both before and after the August 21,
22 2017, murder, including a little over 2,000 communications, most of
23 which were not pertinent to defendant Trejo or the murder
24 investigation. The government also disclosed a report containing a
25 description of what Witness-3 told the government on September 19,
26 2023, regarding safety concerns that led to the government providing
27 \$3,600 to Witness-3 for Witness-3 to relocate.

1 The government disclosed a September 2017 Orange police report
2 describing the attempt to locate defendant Trejo that led to the
3 arrest of Steven Reveles. That report described law enforcement
4 finding Mr. Reveles, not Trejo, in a hotel room with drugs and items
5 related to theft and fraud. The report detailed the topics covered in
6 Reveles' statement, none of which involved Trejo or the Villeda
7 murder.

8 Between May 2025 and August 2025, counsel for defendant Trejo
9 and the government exchanged numerous communications about Witness-
10 3's cell phone. The government confirmed that counsel for defendant
11 Trejo had everything that was in the government's possession
12 regarding the cell phone and advised that the cell phone itself was
13 inoperable. In September 2025, the government advised counsel for
14 defendant Trejo that neither it nor law enforcement possessed a
15 forensic image of the cell phone. In October 2025, the government
16 advised counsel for defendant that neither it nor law enforcement was
17 in possession of a video recording of the statement of Steven
18 Reveles.

19 Defendant Trejo's sentencing is scheduled for August 6, 2026.

20 **III. ARGUMENT**

21 **A. The Defendant's Request to Compel Production is Largely**
22 **Moot.**

23 The defendant has moved for the Court to compel the government
24 to provide copies of the forensic image of Witness-3's cell phone and
25 the video recording of Reveles' statement. As the government
26 previously informed the defendant, neither of those items are in the
27 possession of the government or law enforcement. Those requests
28 should be denied as moot.

B. The Motion to Compel Should Be Denied Because the Defendant Fails to Offer Facts Supporting a Finding that the Requested Items Contain Exculpatory Material.

The government repeatedly has advised defendant that it has no exculpatory material in its possession to disclose. The defendant has offered nothing to support his claim to the contrary. The defendant merely speculates that additional information may exist. He does not offer any basis to conclude that any such information may be exculpatory if it exists. Such baseless speculation is insufficient to support the defendant's requested relief.

Under Brady and its progeny, the prosecution has a duty to disclose evidence favorable to an accused, and the failure to disclose such evidence violates due process "where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." Strickler v. Greene, 527 U.S. 263, 280 (1999) (quoting Brady v. Maryland, 373 U.S. 83, 87 (1963)). "The three elements of a Brady violation are: (1) the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; (2) that evidence must have been suppressed by the [government], either willfully or inadvertently; and (3) prejudice must have ensued." United States v. Williams, 547 F.3d 1187, 1202 (9th Cir. 2008) (citation, alteration, and internal quotation marks omitted). "Evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Jackson v. Brown, 513 F.3d 1057, 1071 (9th Cir. 2008) (citation and internal quotation marks omitted).

When challenging the government's representation that it lacks Brady information, the defendant must demonstrate that the government

1 improperly withheld favorable evidence. United States v. Lucas, 841
2 F.3d 796, 808 (9th Cir. 2016). “[M]ere speculation about material in
3 the government's files” is not sufficient to merit production. United
4 States v. Mincoff, 574 F.3d 1186, 1200 (9th Cir. 2009) (internal
5 quotation marks and citation omitted). Because Brady is not a
6 discovery device, discovery should not be ordered “based upon mere
7 speculation as to whether the material would contain exculpatory
8 evidence....” United States v. Bell, 321 F. App'x 862, 864 (11th Cir.
9 2009) (quoting United States v. Arias-Izquierdo, 449 F.3d 1168, 1189
10 (11th Cir.2006). Even within the Rule 16 discovery context,
11 “[n]either a general description of the information sought nor
12 conclusory allegations of materiality suffice; a defendant must
13 present facts which would tend to show that the Government is in
14 possession of information helpful to the defense.” United States v.
15 Mandel, 914 F.2d 1215, 1219 (9th Cir. 1990). Defendant has failed to
16 do so.

17 1. Witness-3's Cell Phone

18 The defendant has made no showing of the materiality of any
19 additional information that may be extractable from Witness-3's cell
20 phone, if repaired, much less a showing that there is reason to
21 believe the phone contains exculpatory information. The declaration
22 of Mr. Koeberlein in support of defendant's motion makes two claims
23 regarding the content of the disclosed Cellebrite report versus what
24 may remain on Witness-3's phone. First, he states, “if I can get the
25 entire forensic image of Witness-3's phone, I can put that in my own
26 licensed, updated and far more powerful, for an expert, Cellebrite
27 tool and may be able to access the Signal messages on that phone.”
28

1 Dkt. 2081-2, ¶ 9 (emphasis added.) He neither claims that additional
2 information regarding these messages will definitely be accessed with
3 this method nor offers a basis to believe exculpatory messages or any
4 messages at all are missing. Second, Mr. Koeberlein states that the
5 Cellebrite items disclosed by the government "were not the entire
6 dump of Witness-3's phone." Again, he offers no specificity as to
7 which files are missing, what they contain, and why there is a reason
8 to believe there is any exculpatory information within those files.
9
10 As the Ninth Circuit explained, "mere speculation" such as this is
11 insufficient to require production. Mincoff, 574 F.3d at 1200. To the
12 contrary, the available evidence suggests that all of the Signal
13 messages available on Witness-3's phone were captured by the messages
14 between Witness-3 and defendant Trejo introduced as exhibits at
15 trial, as the download of the phone that is available and was
16 produced shows that it was the defendant, whose alias was "Minor,"
17 who suggested that Witness-3 use Signal, and the Signal messages used
18 at trial start on the day after he sent Witness-3 a text message
19 saying, "Let's switch to Signal." See Exhibit A (Trial Exhibit 32-
20 Signal messages between Witness-3 and defendant); Exhibit B (page 130
21 of the Cellebrite report). There is also no evidence whatsoever that
22 the agents "handpicked" the Signal messages and left any out.
23
24

25 Having failed to offer any grounds to support a finding that
26 Witness-3's phone contains undisclosed Brady material, the defendant
27 likewise has not substantiated his request to require the government
28 to attempt to repair the phone and generate a new download from it.

1 Nor has he explained why, two years after trial, he is entitled to
2 discovery on a matter that was already known by his trial counsel.
3 The purpose of post-trial motions for a new trial or acquittal is not
4 to allow a defendant, having lost at trial, a second chance to re-
5 investigate his case via a new round of discovery.¹

6
7 2. Witness-3 Relocation Documents

8 On or about September 27, 2023, approximately one week before
9 trial, the government produced a report to the defendant about a
10 meeting with Witness-3 on September 19, 2023. The report included a
11 description of Witness-3's safety concerns. Witness-3 described a
12 call to Witness-3's mother during which the caller, who later claimed
13 to be an investigator for the defendant, stated that he wanted to get
14 Witness-3 off the case. Additionally, Witness-3's daughter had been
15 followed and chased by a truck, which caused her to feel unsafe and
16 stay somewhere else. Witness-3 explained that he felt like he needed
17 to move for his safety due to the fact that the defendant and the
18 defendant's girlfriend knew where Witness-3 lived and the recent
19 events involving his family. Then, the report explained that the
20 government provided Witness-3 \$3,600 to relocate for safety reasons,
21 which Witness-3 did.

22 In May 2025, the government advised the defendant that it did
23 not possess any additional Brady material regarding the relocation
24 expenses for Witness-3. Despite receiving the above information about
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26 ¹ Defendant's request that he be given the phone to conduct his
27 own analysis is untenable. The Villeda murder is evidence of the
28 criminal enterprise charged in this case, and thus of potential
relevance to the remaining defendants who face RICO Conspiracy or
VICAR charges. The government cannot simply release a phone to one
defendant when it has relevance to other defendants.

1 what led to the temporary relocation support for Witness-3, the
2 defendant claims that there is insufficient information and only the
3 "underlying documents and any safety and/or risk assessment report"
4 will suffice. Dkt. 2081, at 9. Again, the defendant offers no basis
5 to believe there is exculpatory information in the requested
6 underlying documents. The defendant offers nothing more than mere
7 speculation to challenge the government's assertion that there is no
8 Brady information in any "underlying documents." See Mincoff, 574
9 F.3d at 1200. In light of the disclosed and clearly explained reasons
10 for Witness-3's relocation, there is no support for the defendant's
11 assertion that any additional undisclosed underlying documents about
12 the payment constitute Brady material.

13 The defendant is entitled to disclosure of the relevant
14 information, not a review of all of the government's files. The Ninth
15 Circuit has upheld the government's provision of summaries of
16 relevant information in lieu of access to informant's files. United
17 States v. Van Brandy, 726 F.2d 548, 551-52 (9th Cir. 1984). The court
18 explained that "[t]he Brady right to access to evidence, favorable to
19 a defendant, and in the prosecution's possession, does not extend to
20 an unfettered access to the files. In order to prove a violation of
21 constitutional due process, defendant must make a showing that: (a)
22 the non-disclosed evidence is material, (b) its content is favorable
23 to defendant, and (c) that such exculpatory evidence has not been
24 included in any report provided to the defendant. Id. at 551. See,
25 e.g., United States v. Henderson, 250 F. App'x 34, 38-39 (5th Cir.
26 2007) (finding no Brady violation where government provided
27 information about an email between a DEA agent and AUSA in a letter
28 rather than producing the email); United States v. Grunewald, 987

1 F.2d 531, 535 (8th Cir. 1993) (upholding the production of
2 typewritten summaries of an IRS agent's notes to the defense, rather
3 than the notes themselves); United States v. Flynn, 411 F. Supp. 3d
4 15, 37 (D.D.C. 2019) ("persuasive authority holds that the
5 government's production of summaries of notes and other documents
6 does not constitute a Brady violation") (citing Van Brandy and
7 Grunewald). The government provided all relevant information
8 concerning the \$3,600 provided for the temporary relocation of
9 Witness-3 and is in possession of no undisclosed Brady information
10 regarding this expense.

11 Defendant acknowledges that his trial counsel was aware of the
12 \$3,600 paid to Witness-3 to relocate due to safety concerns prior to
13 Witness-3 taking the stand. Dkt. 2081 at 5. Defendant's trial counsel
14 chose not to question Witness-3 about the payment, likely because it
15 would have opened the door to prejudicial evidence about why the
16 payment was made. Id. Despite having all the information needed to
17 impeach Witness-3 -- the amount, reason and timing of the payment --
18 defendant seeks to compel all underlying documents concerning the
19 threats and payment without explaining what facts relevant to the
20 impeachment concerning the payment he expects to find. Defendant's
21 claim that the underlying documents were "the only way" to assess the
22 risk of questioning Witness-3 about the payment is simply an attempt
23 to second-guess the trial decisions of defendant's trial counsel.
24 Defendant's trial counsel was fully aware of this issue and made no
25 additional discovery requests concerning it. There was no suppression
26 and there was no Brady violation.

1 3. Recorded Statement of Steven Reveles

2 The statement of Steven Reveles is entirely irrelevant. On
3 September 14, 2017, law enforcement went to a hotel room looking for
4 defendant. See Dkt. 2081-1, Exhibit B, at 1. When officers arrived,
5 they found Reveles, but not the defendant. Id. Officers found
6 significant quantities of drugs, drug paraphernalia, counterfeit U.S.
7 currency, and several other items related to potential theft and
8 fraud. Id. at 1-5. Later, officers interviewed Mr. Reveles about the
9 contraband. Law enforcement wrote a detailed description of that
10 interview. Id. at 5-8. While Mr. Reveles made many incriminating
11 admissions, there is no indication that he knew anything about the
12 murder or that the defendant was discussed during the interview. The
13 report indicates that a recording was made of the 2017 interview. On
14 October 22, 2025, the government informed the defendant that neither
15 it nor local law enforcement possessed a copy of the recording.

16 As the recording is unavailable, defendant's request to compel
17 its production is moot. Defendant also requests that the Court compel
18 the government to "provide [an] explanation of what happened to [the
19 recording]," essentially a civil discovery interrogatory not provided
20 for under Rule 16. Dkt. 2081 at 10. The defendant makes this request
21 despite acknowledging that "Mr. Reveles may not have said anything
22 exculpatory." Id. Though the defendant alleges that Reveles claimed
23 to have been asked about the murder, he does not allege that Reveles
24 said anything about the murder, and the detailed report of the
25 statement does not mention any discussion about the murder. See Dkt.
26 2081-1 at ¶ 15. Even crediting defendant Trejo's assertion that
27 Reveles, on an unknown date and with no further detail, told him that
28 the officers asked him about the murder, that does not establish that

1 Reveles said anything about the murder in response to any
2 questioning, let alone anything exculpatory to do with defendant
3 Trejo, or that Reveles had any basis for even knowing anything at all
4 about the murder. All of the available information indicates that Mr.
5 Reveles' statement is completely irrelevant. As such, there is no
6 basis to compel the government to explain what happened to a
7 recording that would not be discoverable if it existed.

8 **IV. CONCLUSION**

9 For the foregoing reasons, the government respectfully requests
10 that this Court deny defendant Trejo's motion to compel Brady
11 material.
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